

PT 02-57

Tax Type: Property Tax

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

CHICAGO METROPOLITAN
BAPTIST ASSOCIATION
APPLICANT

v.

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

No. 01-PT-0078
(00-16-2338)
P.I.N: 18-13-409-045

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. Michael Abramovic, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (The “Department”).

SYNOPSIS: This proceeding raises the limited issue of applicant owned real estate identified by Cook County Parcel Index Number 18-13-409-045 (the “subject property”) during any part of the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed a *pro-se* Real Estate Tax Exemption Complaint, seeking to exempt the subject property from 2000 real estate taxes under 35 ILCS 200/15-40, with the Cook County Board of Review (the “Board”) on June 4, 2001. (Dept. Group Ex. No. 1, Doc. A). The Board reviewed applicant’s complaint and recommended to the Department that the requested exemption be denied because applicant did not own the property until April

11, 2001. (Dept. Group Ex. No., Doc. B).¹ The Department reviewed and accepted the Board's recommendation by issuing a determination dated September 13, 2001, which found that the subject property is not in exempt ownership in 2000. (Dept. Group Ex. No. 1, Doc. C).

Applicant filed a timely appeal to this denial and later presented evidence at a formal evidentiary hearing, at which it appeared *pro-se*. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination in this matter be affirmed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by the admission of Dept. Group Ex. No. 1.
2. The Department's position in this matter is that the subject property was not in exempt ownership during the tax year currently in question, 2000. Dept. Group Ex. No. 1, Doc. C.
3. The subject property is located in Chicago, IL and improved with three separate buildings. Dept. Group Ex. No. 1, Doc. B.
4. Applicant is an Illinois not-for-profit corporation devoted to promulgating Christianity throughout the Chicago metropolitan area. Applicant Group Ex. No. 1, Docs E, F.
5. Applicant obtained ownership of the subject property by means of a warranty deed dated April 11, 2001. Applicant Group Ex. No. 1, Doc. D.

1. Copies of the Applicant's Complaint form and the Departmental Application form containing the Board's recommendation are attached hereto and incorporated by reference herein.

6. Applicant's grantor, the First Baptist Church of Argo-Summit, maintained a real estate tax exemption for the subject property during the 2000 assessment year. Applicant Group Ex. No. 1, Doc. C; Tr. pp. 49-50.
7. The Chairman of applicant's board of trustees, the Rev. Robert Gay, testified that he filed the instant Exemption Complaint so that the applicant, Chicago Metropolitan Baptist Association, could receive an exemption from 2001 real estate taxes for the subject property. Tr. pp. 49-50.
8. Rev. Gay completed the Real Estate Tax Exemption Complaint and the Departmental Application form *pro-se* and submitted these documents without the assistance of counsel. Dept. Group Ex. No. 1, Docs. A, B.
9. Rev. Gay also signed the attached Pre-Hearing Order which indicated, *inter alia*, that:

By signing this order, applicant's authorized representative hereby expresses his complete and total understanding of: (a) all of the terms and conditions set forth herein; and, (b) applicant's right to be represented by legal counsel of its choice at the evidentiary hearing, provided that such counsel is duly licensed to practice law in the State of Illinois.
10. Rev. Gay appeared at the hearing and stated as follows:

Q. [By the ALJ] Mr. Gay, you're appearing without the benefit of counsel, is that correct?

A. [By Rev. Gay] Yes.

Q. You understand you have the right to counsel in this hearing?

A. Yes

Q. You are waiving it for the purposes of today's hearing, is that correct?

A. Yes.

Tr. pp. 5-6.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* The Code provisions that govern disposition of this case are found in Sections 15-40 thereof, which provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the above-listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 **ILCS** 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions or doubts resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v.

Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here, the relevant statutory exemption pertains to properties “used exclusively for religious purposes ...” 35 **ILCS** 200/15-40. The word “exclusively” when used in Section 15-40 means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

The Department concluded that the subject property did not qualify for exemption from 2000 real estate taxes under 35 **ILCS** 200/15-40 ostensibly because applicant held no ownership interest in said property during that tax year. Applicant’s authorized representative, the Rev. Robert Gay, completed both the Real Estate Tax Complaint (Department Group Ex. No. 1, Doc. A) and the Departmental Application Form (Department Group Ex. No. 1, Doc. B) *pro se*. He also submitted these documents without the assistance of counsel and chose to appear at the hearing without an attorney. As such, it appears that Rev. Gay failed to appreciate the following legal technicalities:

Section 1-155 of the Property Tax Code defines the term “year” for Property Tax purposes as meaning a calendar year. 35 **ILCS** 200/1-155. Each such “year” constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State

Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4th Dist. 1980); Jackson Park Yacht Club v. Department of Local Government Affairs, 93 Ill. App.3d 542 (1st Dist. 1981); Fairview Haven v. Department of Revenue, 153 Ill. App.3d 763 (4th Dist. 1987). Therefore, the one and only state of affairs that is relevant to this proceeding is the one that transpired between January 1, 2000 and December 31, 2000.

The warrantee deed admitted as Applicant Group Ex. No. 1, Document D proves that applicant did not obtain ownership of the subject property until April 11, 2001. Accordingly, applicant held no ownership interest in said property throughout the tax year currently in question, 2000.

Section 9-175 of the Property Tax Code states, in relevant part that, "[t]he owner of property ... shall be liable for the taxes of that year...[.]" 35 ILCS 200/9-175. Applicant held no ownership interest in the subject property throughout 2000. Consequently, applicant is not liable "for taxes of that year." 35 ILCS 200/9-175. Applicant therefore does not have "a direct and substantial interest in" the outcome of this case. Highland Park Women's Club v. Department of Revenue, 206 Ill. App.3d 447 (2nd Dist. 1991). Thus, as a technical matter, applicant lacks standing to bring the instant exemption complaint.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the applicant, Chicago Metropolitan Baptist Association,² not be awarded an exemption from 2000 real estate taxes for real estate identified by Cook County Parcel Index Number 18-13-409-045.

2. This Recommendation should not be interpreted as expressing any opinion about the validity of any property tax exemption that applicant's grantor, the First Baptist Church of Argo-Summit, (which is neither the nominal applicant in, nor a party to, this proceeding), held for the subject property during the 2000 assessment year. See, Applicant Group Ex. No. 1, Docs C, D.

October 3, 2002

Date

Alan I. Marcus
Administrative Law Judge